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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:13-CR-323 JCM (PAL)

8 Plaintiff(s),

ORDER

9 v.

10 DONALD WALTERS, JR.,

11 Defendant(s).  
12

13 Presently before the court is Donald Walters, Jr.'s petition for a writ of habeas corpus.  
14 (ECF No. 91).

15 This petition is flawed as a result of Mr. Walters' lack of clarity regarding the legal basis  
16 for his habeas petition. *See (id.)*. Although the government views the petition as submitted under  
17 28 U.S.C. § 2255 despite the petition's appearance on a form used for 28 U.S.C. § 2254 petitions  
18 (ECF No. 94), Mr. Walters has not indicated within the body of his submission whether this is a  
19 habeas filing based upon state or federal proceedings. *See (id.)*.

20 Indeed, the petition's contents only add to the confusion. In response to the form's inquiry  
21 addressing whether Mr. Walters had exhausted state consideration of the petition, he identifies the  
22 issue that "[f]ederal time is not being run concurrent to state time – Federal, not state issue." (ECF  
23 No. 91 at 7). However, Mr. Walters also indicates that his 6th Amendment ineffective assistance  
24 of counsel claim is also based upon how the state court's judgment—rendered after the federal  
25 court's judgment—was effectuated. *See (id.)*.

26 Consequently, it is not clear whether Mr. Walters seeks review of a state court judgment  
27 or a federal court judgment. *See (id.)*. This issue is relevant as "the exhaustion doctrine is designed  
28 to give the state courts a full and fair opportunity to resolve federal constitutional claims before

1 those claims are presented to the federal courts.” *O’Sullivan v. Boerckel*, 526 U.S. 838, 845 (1999).  
2 Indeed, the petition suggests that the state courts have not had an opportunity to confront the  
3 question presented by Mr. Walters. *See* (ECF No. 91).

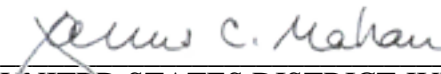
4 Mr. Walters also requests that counsel be appointed in this case. Local Rule IC 2-2(b)  
5 states that “[f]or each type of relief requested or purpose of the document, a separate document  
6 must be filed and a separate event must be selected for that document.” Therefore, petitioner must  
7 submit a motion for the appointment of counsel that addresses the relevant legal standard and the  
8 facts of this case before the court will consider this question.

9 Accordingly,

10 IT IS HEREBY ORDERED, ADJUDGED, and DECREED that Mr. Walters’ petition  
11 (ECF No. 91) be, and the same hereby is, DENIED as unexhausted.

12 IT IS FURTHER ORDERED that the government’s motion to dismiss the petition (ECF  
13 No. 94) be, and the same hereby is, DENIED as moot.

14 DATED June 7, 2017.

15   
16 UNITED STATES DISTRICT JUDGE